

CASE SUMMARY

People v. Catarino Gonzalez, Jr.
S122240

To Be Argued on Wednesday, December 8, 2004, 9:00 a.m. Session

In *Miranda v. Arizona* (1966) 384 U.S. 436, the United States Supreme Court set out rules for police questioning of suspects in custody. The suspect must be given the familiar *Miranda* warnings, "You have the right to remain silent" and "You have the right to an attorney before any questioning." The suspect must willingly give up these rights before the police can begin questioning. If during the interrogation the suspect changes his mind and tells the police he wants an attorney, the police must stop the questioning immediately. Any statement made during continued questioning cannot be used in evidence.

On August 8, 1998, Los Angeles Police Department Officers Filbert Cuesta and Richard Gabaldon were in their patrol car waiting for a noisy wedding party to break up when 12 to 15 gunshots were fired in rapid succession at the vehicle, shattering the rear window. Cuesta was shot in the back of the head and killed. Gabaldon, who was getting out of the patrol car when the shooting began, slid down in his seat and was not injured. Gang member Catarino Gonzalez, Jr., who attended the reception, turned himself in after learning that he was a suspect in the murder of Cuesta and attempted murder of Gabaldon.

Before questioning Gonzalez, police detectives gave him the standard *Miranda* warnings. He agreed to talk to them and to give up his rights to remain silent and to have an attorney present during questioning. At first Gonzalez denied shooting at the officers. When a detective asked him to submit to a lie detector test, this discussion occurred:

Gonzalez: "That um, one thing I want to ask you to that, if for anything you guys are going to charge me I want to talk to a public defender too, for any little thing"

Detective: "Well, you can do that any time you want to. The thing is that we're going to book you tonight."

Gonzalez: "Yeah."

Detective: "If that's okay? And if you come out . . . telling the truth tomorrow, we'll let you go."

Gonzalez: "Book me on what?"

Detective: "On murder. That doesn't mean you're going to be filed on."

The detectives continued to talk to Gonzalez and persuaded him to submit to a lie detector test, which he took the next day. After the test, police again questioned Gonzalez, with no attorney present. During this questioning, Gonzales admitted he fired a gun at Officers Cuesta and Gabaldon.

Before trial, Gonzalez's attorney attempted to prevent the jury from hearing evidence that he admitted shooting at the officers. The defense attorney argued to the judge that Gonzalez's comment about wanting to talk to a public defender was a request to talk to an attorney at that time and any later interrogation violated his right to an attorney under *Miranda*. The detective testified at the pretrial hearing that he understood Gonzalez was requesting an attorney only if he were formally charged with the crime, as opposed to being arrested. The judge found Gonzalez's public defender comment was ambiguous and did not clearly indicate that he wanted an attorney at that time. The judge ruled the prosecution could present evidence to the jury that Gonzales admitted firing at the officers.

The jury also heard two eyewitnesses identify Gonzalez as the shooter. One of these witnesses was a fellow gang member who the defense argued was biased against Gonzalez. Other prosecution evidence included Gonzalez's previous run-ins with Cuesta, which indicated a possible motive for the shooting. The prosecution also presented evidence that gunshot residue was found on clothing in a closet in the residence of Gonzalez's relative. Gonzalez had spent the night of the shooting at the relative's residence.

The defense argued there were innocent explanations for the gunshot residue on the clothing, and Gonzalez denied the clothing was his. The defense also pointed out that Gonzalez's right hand was partially disabled as a result of being shot a year earlier, and although he could hold a gun and fire one or two shots, he could not have fired rapidly a dozen or more times. The jury convicted Gonzalez of murder and attempted murder.

The Supreme Court is asked to answer two questions: (1) Was Gonzalez's statement to police during the first interview—"If for anything you guys are going to charge me I want to talk to a public defender too, for any little thing"—a sufficiently clear request for an attorney that the police should have stopped questioning him? (2) If so, did the use of Gonzalez's illegally obtained statement admitting he had shot at the officers affect the outcome of the trial?